

## REMARKS

### Summary

This response is in reply to the Office Action mailed January 4, 2007. Applicants have currently canceled Claims 21-36. Claims 1-8, 10-15, 17-20, and 37-43 are currently pending.

### Claims 1-10: Rejections Under 35 U.S.C. § 103(a)

Claims 1-8 and 10 have been rejected under 35 U.S.C. § 103(a). Applicants respectfully traverse the rejections as to claims 1-8 and 10 in view of the following remarks and arguments. In particular, Applicants respectfully submit that independent claim 1 is allowable over Akiyama *et al.* (CA 2387386) in view of Reynolds *et al.* (U.S. Pat. No. 7,020,888) and Zigmond *et al.* (U.S. Pat. No. 6,698,020), and that because claim 1 is allowable, the claims that depend therefrom are also allowable.

The Office Action states that neither Akiyama *et al.* nor Reynolds *et al.* teach the limitation of “determining whether the television broadcast program has resumed after end of the television broadcast advertisement, determining whether the replacement advertising segment has ended, and if the replacement advertising segment has not ended, storing the resumed television broadcast program on a storage device from a beginning point and displaying the resumed broadcast program from the beginning point.” *Office Action mailed January 4, 2007*, p. 4. However, the Office Action relies on Zigmond *et al.* for the teaching of this missing limitation. The Applicants respectfully submit that Zigmond *et al.* does not, in fact, teach or suggest this missing limitation.

The Office Action states that Zigmond *et al.* specifically teaches

determining whether television broadcast program has resumed after end of the television break, determining whether the television break has ended, and if television break has not ended, storing the resumed television broadcast program on a storage device from a beginning point, and displaying the resumed broadcast program from the beginning point — col. 16, lines 30-43. *Id.* at p. 5.

The Office Action then states it would have been obvious to modify Akiyama *et al.* and Reynolds *et al.* to include the teachings of Zigmond *et al.* “for the well known advantage that the user does not miss any programming.” *Id.* Applicants respectfully

traverse this rejection and submit that Zigmond *et al.* does not teach or suggest the limitation of claim 1 wherein the method includes "determining whether the television broadcast program has resumed after end of the television broadcast advertisement, determining whether the replacement advertising segment has ended, and if the replacement advertising segment has not ended, storing the resumed television broadcast program on a storage device from a beginning point, and displaying the resumed broadcast program from the beginning point."

Zigmond *et al.* is generally directed to "methods and systems for inserting advertisements or other video or visually displayed objects into video programming feeds at the household level. The method of invention allows advertisers to target individual viewers based on the needs and interests of individual viewers and households." *U.S. Pat. No. 6,698,020*, col. 4, ll. 7-12. According to Zigmond *et al.*, a selected advertisement may be inserted into a programming feed based on a "triggering event" and that this "triggering event" "may be a signal carried in the video programming feed, implied by the timewise structure by the video programming feed, or based on an external mechanism, such as information contained in an electronic program guide." *Id.* at col. 4, ll. 40-45.

The Office Action cites to col. 16, ll. 30-43 of Zigmond *et al.* as forming the basis of the teaching of "determining whether the television broadcast program has resumed after end of the television broadcast advertisement, determining whether the replacement advertising segment has ended, and if the replacement advertising segment has not ended, storing the resumed television broadcast program on a storage device from a beginning point, and displaying the resumed broadcast program from the beginning point." However, the citations to Zigmond *et al.* demonstrate that Zigmond *et al.* does not, in fact, teach or suggest this limitation. The text of col. 16, ll. 30-43 is reproduced below:

In yet another embodiment, advertisements are selected and inserted into a video programming stream without regard to the position of the conventional advertising slot. Instead of an appropriate time determined by the content of the programming or by any other desired criteria, the video programming is interrupted and one or more selected advertisements are displayed. **In this embodiment a delay code is embedded in the video programming, which functions to delay or pause the programming during the length of the advertisements. Once the advertisements are completed, the paused programming resumes.** From the standpoint of the viewer, such

ad insertion appears to be no different than the other embodiments of the invention. (emphasis added). *Id.* at col. 16, ll. 30-43.

In order to establish a *prima facie* case of obviousness, "all the claim limitations must be taught or suggested by the prior art." See *Manual of Patent Examination and Procedure* § 2143.03 (hereinafter "MPEP"). The excerpt above demonstrates that Zigmond *et al.* does not teach or suggest the limitation of "determining whether the television broadcast program has resumed after end of the television broadcast advertisement, determining whether the replacement advertising segment has ended, and if the replacement advertising segment has not ended, storing the resumed television broadcast program on a storage device from a beginning point, and displaying the resumed broadcast program from the beginning point." Instead, the excerpt above illustrates that a delay code is embedded in the video programming without regard to whether the television broadcast program has resumed, or whether a determination has been made that the replacement advertising segment has ended. In fact, Zigmond *et al.* is silent as to making either determination and, from the excerpt cited above, appears that Zigmond *et al.* never makes these determinations. Furthermore, Zigmond *et al.* merely "delay[s] or pause[es] the programming during the length of the advertisements." Hence, the system disclosed in Zigmond *et al.* simply pauses or delays programming based on the insertion of an advertisement, whereas the method claimed in claim 1 records a resumed television broadcast program based on determining whether the replacement advertising segment has ended, and then displays the stored resumed television broadcast program.

Furthermore, Zigmond *et al.* teaches that the program resumes from the point where the advertisement is inserted and the programming is delayed or paused. In contrast, claim 1 recites **not** that the program is stored and resumes from the point where the advertisement is inserted, but rather that the program is stored when the replacement advertising segment has not ended, and the television broadcast program has resumed. Zigmond *et al.* teaches that video programming is delayed or paused during the length of the advertisement, not that the video programming is stored on a storage device from a beginning point and then resuming the video programming from the beginning point. In contrast, claim 1 recites to begin storing a television broadcast program from a beginning

point if the television broadcast program has resumed and a television broadcast advertisement has not ended. Zigmond *et al.* fails to teach or suggest such a modification.

Accordingly, claim 1 is allowable over Akiyama *et al.* in view of Reynolds *et al.*, and in further view of Zigmond *et al.* As amended claim 1 is allowable, claims 2-8 and 10 are also allowable for at least the same reason.

#### **Claims 11-15 and 17-20: Rejections Under 35 U.S.C. § 103(a)**

Claims 11-20 have been rejected under 35 U.S.C. § 103(a). The Applicants respectfully traverse the rejections as to claims 11-15 and 17-20 in view of the following remarks and arguments. In particular, Applicants respectfully submit that independent claim 11 is allowable over Akiyama *et al.* in view of Reynolds *et al.* and in further view Zigmond *et al.*, and that because claim 11 is allowable, the claims that depend therefrom are also allowable.

The Office Action recognizes that neither Akiyama *et al.* nor Reynolds *et al.* teach the limitation of "determining whether a next sequential program segment in the television broadcast program has commenced after end of the blocked television broadcast segment, determining whether the selected replacement segment has ended, and if the selected replacement segment has not ended, storing the next sequential program segment on a storage device from a beginning point, and displaying the next sequential segment from the beginning point after the selected replacement segment has ended." However, the Office Action relies on Zigmond *et al.* for this teaching, citing the excerpt from Zigmond *et al.* above. Applicants traverse the rejection with respect to Zigmond *et al.* as Zigmond *et al.* fails to teach or suggest this limitation.

In order to establish a *prima facie* case of obviousness, "all the claim limitations must be taught or suggested by the prior art." See *MPEP* § 2143.03. The system in Zigmond *et al.* makes no determinations as to whether a replacement segment has ended or whether a next sequential program segment has commenced after a blocked television broadcast segment. Zigmond *et al.* simply inserts an advertisement in a video programming stream, pauses or delays the video programming stream from the point of insertion, and then resumes the video programming segment when the advertisements are completed. In contrast to the system disclosed in Zigmond *et al.*, claim 11 requires

“determining whether replacement segment has ended, and if replacement segment has not ended, storing the next sequential program segment on a storage device from a beginning point.” There is no indication in Zigmond *et al.* that the video programming can resume while the advertisement is being displayed. Thus, in contrast to the system disclosed in Zigmond *et al.*, which simply pauses and resumes a video programming stream based on the insertion of an advertisement in the stream, the method claimed in amended claim 11 requires recording and displaying of a next sequential program segment based on determining whether the replacement segment has ended while the next sequential program is not being viewed.

Accordingly, for at least this reason, claim 11 is allowable over Akiyama *et al.* in view of Reynolds *et al.*, and in further view of Zigmond *et al.* As claim 11 is allowable, dependent claims 12-15 and 17-20 are also allowable for at least this same reason.

#### **Claims 21-36: Rejections Under 35 U.S.C. § 103(a)**

Claims 21-36 have been rejected under 35 U.S.C. § 103(a). The Applicants have now canceled claims 21-36 without prejudice to expedite the allowance of the remaining claims. The Applicants respectfully reserve the right to re-instate these canceled claims in a continuation or divisional applications. Accordingly, the Applicants respectfully request the Examiner's withdrawal of the rejections against claims 21-36.

#### **Claims 37-40 and 42-43: Rejections Under 35 U.S.C. § 103(a)**

Claims 37-40 and 42-43 have been rejected under 35 U.S.C. § 103(a). Claims 37-40 and 42-43 have been rejected as being unpatentable over Akiyama *et al.* in view of Reynolds *et al.* and in further view of Zigmond *et al.*

The Applicants respectfully traverse the rejections as to claims 37-40 and 42-43 in view of the following remarks and arguments. In particular, Applicants respectfully submit that independent claim 37 is allowable over Akiyama *et al.* in view of Reynolds *et al.* in further view of Zigmond *et al.* As claim 37 is allowable, the claims that depend therefrom are also allowable.

The Office Action recognizes that Akiyama *et al.* in view of Reynolds *et al.* fails to teach the limitation of “a multimedia controller . . . wherein the multimedia controller is

further operative to determine whether the television broadcast program has resumed after the end of the television broadcast advertisement, to determine whether the replacement advertising segment has ended, and if the replacement advertising segment has not ended, to store the resumed television broadcast program on the first memory storage from a beginning point, and to display the resumed broadcast program from the beginning point,” but states that Zigmond *et al.* teaches this limitation, citing to the excerpt previously discussed above with reference to claim 1.

The Applicants respectfully traverse the rejection in view of Zigmond *et al.*, and submit that Zigmond *et al.* fails to teach or suggest this limitation for at least two reasons. As a first reason, and as discussed above with respect to claim 1, Zigmond *et al.* simply pauses or delays a video programming stream upon the insertion of an advertisement, and then resumes the video programming stream when the advertisement is completed. Accordingly, for at least this first reason, claim 37 is patentable over Akiyama *et al.* in view of Reynolds *et al.*, and in further view of Zigmond *et al.*

For a second reason, Zigmond *et al.* does not indicate whether one or more components in the disclosed system are operative to “determine whether the television broadcast program has resumed after the end of the television broadcast advertisement, to determine whether the replacement advertising segment has ended, and if the replacement advertising segment has not ended, to store the resumed television broadcast program on the first memory storage from a beginning point, and to display the resumed broadcast program from the beginning point.” At most, Zigmond *et al.* discloses an “ad insertion device 60” (see Figure 5), but does not indicate that this device is operative to make the determinations of the “multimedia controller” that is claimed in claim 37. Although the “ad insertion device 60” is described with reference to Figure 5, there is no indication that the “ad insertion device 60” is configurable to make the claimed determinations. Hence, Zigmond *et al.* fails to teach or suggest all of the components of the system claimed in claim 37. Accordingly, for at least this second reason, claim 37 is allowable over Akiyama *et al.* in view of Reynolds *et al.* and in further view of Zigmond *et al.*

As claim 37 is allowable for at least the two reasons discussed above, dependent claims 38-40 and 42-43 are also allowable for at least these same reasons.

## Conclusion

Therefore, in view of the above amendment and remarks, Applicants respectfully submit that this application is in condition for allowance and such action is earnestly requested.

If for any reason the Examiner is not able to allow the application, he is requested to contact the Applicants' undersigned attorney at (312) 321-4200.

Respectfully submitted,

  
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